MONTANA LEGISLATIVE HISTORY

Chapter 453 19 93

Bill H 613 S _____ Original bill & history ____C

H. Committee on	Local Govt		S. Committee on	Local Govt	
Hearing Date(s)	Feb 18	✓ C	Hearing Date(s)	Mar 16	✓ C
		____C			____C
		____C			____C
		____C			____C
Date Out	Feb 18	✓ C		Mar 17	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

CHAPTER NUMBER 414
EFFECTIVE DATE: 04/19/93—SECTIONS 25, 26, 28 & 29
EFFECTIVE DATE: 07/01/93—SECTIONS 1-24 & 27

HB 610 INTRODUCED BY WHALEN

CLARIFY ENFORCEMENT AUTHORITY OF HEALTH FACILITIES DIVISION

2/12	INTRODUCED		
2/12	REFERRED TO JUDICIARY		
2/12	FIRST READING		
2/12	FISCAL NOTE REQUESTED		
2/17	HEARING		
2/17	FISCAL NOTE RECEIVED		
2/17	FISCAL NOTE PRINTED		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	2ND READING PASSED	77	22
2/24	3RD READING PASSED	80	19
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/17	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	32	16
3/29	3RD READING CONCURRED	37	11
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	91	7
4/02	3RD READING AMENDMENTS CONCURRED	88	11
4/13	SIGNED BY SPEAKER		
4/13	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR		

CHAPTER NUMBER 415
EFFECTIVE DATE: 10/01/93

HB 611 INTRODUCED BY WISEMAN

GENERALLY REVISE RESIDENTIAL LANDLORD AND TENANT LAWS

2/13	INTRODUCED
2/13	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT
2/13	FIRST READING
2/17	HEARING
2/17	TABLED IN COMMITTEE

HB 612 INTRODUCED BY DOLEZAL

PROTECT CONSUMERS FROM TELEPHONE SOLICITATION FRAUD AND UNDUE PRESSURE

2/13	INTRODUCED
2/13	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT
2/13	FIRST READING
2/13	FISCAL NOTE REQUESTED
2/17	HEARING
2/17	TABLED IN COMMITTEE
2/19	FISCAL NOTE RECEIVED
2/20	FISCAL NOTE PRINTED

HB 613 INTRODUCED BY EWER

GENERALLY REVISE LOCAL GOVERNMENT GENERAL OBLIGATION AND REVENUE BONDS

2/13	INTRODUCED

2/13	REFERRED TO LOCAL GOVERNMENT		
2/13	FIRST READING		
2/18	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/20	2ND READING PASSED	93	6
2/23	3RD READING PASSED	97	3
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO LOCAL GOVERNMENT		
3/16	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/19	2ND READING CONCURRED	47	0
3/20	3RD READING CONCURRED	42	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	95	0
4/02	3RD READING AMENDMENTS CONCURRED	94	3
4/13	SIGNED BY SPEAKER		
4/14	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 453		
	EFFECTIVE DATE: 10/01/93		

HB 614 INTRODUCED BY BOHARSKI, ET AL.

ENHANCE ABILITY TO COLLECT CHILD SUPPORT

2/13	INTRODUCED		
2/13	REFERRED TO HUMAN SERVICES & AGING		
2/13	FIRST READING		
2/13	FISCAL NOTE REQUESTED		
2/17	HEARING		
2/19	FISCAL NOTE RECEIVED		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	FISCAL NOTE PRINTED		
2/22	2ND READING DO PASS AS AMENDED MOTION FAILED	49	50
2/22	MOTION FAILED TO RECONSIDER PREVIOUS ACTION AND PLACE BACK ON 2ND READING	44	53

HB 615 INTRODUCED BY EWER, ET AL.

MANDATE PAYMENT OF UP TO TWO WEEKS SEVERANCE PAY FOR STATE REDUCTION IN FORCE

2/13	INTRODUCED
2/13	REFERRED TO STATE ADMINISTRATION
2/13	FIRST READING
2/13	FISCAL NOTE REQUESTED
2/17	HEARING
2/18	FISCAL NOTE RECEIVED
2/19	TABLED IN COMMITTEE
2/19	FISCAL NOTE PRINTED
3/13	COMMITTEE REPORT—BILL PASSED AS AMENDED
3/17	TAKEN FROM ENGROSSING AND REREFERRED TO APPROPRIATIONS
3/26	MISSED TRANSMITTAL DEADLINE

HB 616 INTRODUCED BY DRISCOLL, ET AL.

PROVIDE CLEAN COAL TECHNOLOGY DEMONSTRATION LOAN TO MHD DEVELOPMENT CORPORATION

2/13	INTRODUCED

airport authorities as well.

REP. BROWN informed **Ms. Ellingson** that he had spoken to Tim Phillips of Missoula, who indicated they should add some language under the exception section in both clauses and add "airport authority" following library. He asked if she felt it was needed.

Ms. Ellingson said that as far as bonding authority, the provision in section two, as amended, gives bond holders and bond council underwriters comfort that they can pledge these revenues. She said she had also spoken to Mr. Phillips, and he is concerned because if you have a duly concentrated airport authority that is a political subdivision and municipal corporation that can incur debt and enter into agreements and issue bonds, why should it have to submit its budget to local governments.

Closing by Sponsor:

REP. EWER closed the hearing on HB 631.

HEARING ON HOUSE BILL 613

Opening Statement by Sponsor:

Rep. David Ewer, HD 45, Helena, explained that the purpose of HB 613 is to acknowledge that the municipal bond industry has changed over the years and legislation has not kept up with the change. The bill repeals many sections relating to bonding. There are technical changes made with regard to principal installments. After 1983 all municipal bonds under federal tax must be registered. Ownership is determined by this registration. Current law requires that the newspaper be used to notify the bondholder that the bonds are callable. If you have a bond issuer who knows who the owners of the bonds are it should not have to use the newspaper. This is a waste of money and effort. Many of the changes to the bill reflect that there are more registered bonds than there are bearer bonds. There are a great many statutes dealing with revenue bonds and there is a redundancy which requires sections be repealed.

Proponents' Testimony:

Mae Nan Ellingson, Dorsey and Whitney, Missoula, testified in favor of HB 613. **EXHIBIT 2**

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. EWER asked **Ms. Ellingson** if her testimony should have also included repealing sections 7-13-4302 and 7-13-4303. **Ms. Ellingson** said the two sections should have been included.

CHAIRMAN WALLIN asked if the investor is protected for a certain number of years as far as the rate of interest. **Ms. Ellingson** said that in almost no instance would someone lend money for 20 years and give a 20-year rate if they know that you will taking away the investment within two or three years. Under Montana law, with respect to revenue bonds, the municipality at the time of issuance may establish their own call features. Typically if a 20-year revenue bond is issued, you can tell the bondholder that you are reserving the right at the end of 10 years to call those bonds.

REP. SMITH asked what involvement the public has with regard to the processing of the bonds. **Ms. Ellingson** replied that with respect to a revenue bond, under current law, the city council does not have to get approval by vote to issue a revenue bond. There is not current voter approval for the issuance of pure revenue bonds.

REP. BOHLINGER asked, in the event there are not enough revenues to support a revenue bond, what protection is there for the bondholder. **Ms. Ellingson** said the person who buys a revenue bond is at a greater risk than someone who buys a general obligation bond. The person buying a revenue bond is exclusively looking to that pot of revenues. There are standards in the market which are built into the bond documents to prevent a default. They usually go into a reserve and the city or town will covenant to collect 125% of what they need. The bondholder is at risk since they cannot sue a city or county to levy taxes to bail them out.

CHAIRMAN WALLIN asked if all bonds sold have a sinking fund built into them.

Ms. Ellingson said that almost all bonds are structured to have a debt service account. A typical water and sewer bond would have a principal payment coming due once a year and would usually have a debt service account set up and each month one-sixth of the interest and one-twelfth of the principal would be put in.

Closing by Sponsor:

REP. EWER closed the hearing on HB 613 and reminded members that the first bill he brought before the Committee was that if they were going to have revenue bonds backed by taxing authority they would require a vote. He noted that there is a real distinction between revenue bonds, which are not tax-backed and those that are. If you want them tax-backed you must have them voted on by the people.

EXECUTIVE ACTION ON HOUSE BILL 644

Discussion: **REP. BRANDEWIE** expressed concern about passing a bill with unanswered questions.

REP. BROWN apologized for the lateness of the bill and assured **REP. BRANDEWIE** that the questions on bonding and financing will be fully answered by the time the bill reaches the floor. **REP. BROWN** said his intent was to enhance the operation of the private sector relationship with state government in a manner that is acceptable to both.

Motion/Vote: **REP. BROWN MOVED HB 644 DO PASS.** Motion carried 13-3 on a roll-call vote with **REPS. MCCAFFREE, WYATT,** and **CHAIRMAN WALLIN** opposing.

EXECUTIVE ACTION ON HOUSE BILL 631

Motion: **REP. BRANDEWIE MOVED HB 631 DO PASS.**

Motion/Vote: **REP. BROWN** moved to adopt the amendments for HB 631. **EXHIBIT 3** Motion carried 10-6 on a roll-call vote with **REPS. EWER, McCAFFREE, SAYLES, SMITH, WINSLOW** and **WYATT** opposing.

Motion/Vote: **REP. BROWN MOVED HB 631 DO PASS AS AMENDED.** Motion carried 15-1 on a roll-call vote with **REP. McCAFFREE** opposing.

EXECUTIVE ACTION ON HOUSE BILL 613

Motion/Vote: **REP. WYATT MOVED HB 613 DO PASS.** Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 536

Motion/Vote: **REP. VOGEL MOVED HB 536 DO PASS.** Motion carried unanimously.

Motion/Vote: **REP. SAYLES MOVED TO PUT HB 536 ON THE CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 463

Motion: **REP. BRANDEWIE MOVED HB 463 DO PASS.**

Discussion: The Committee discussed the effects of this type of legislation and agreed on a provision to sunset July 1, 1995.

Motion/Vote: **REP. BROWN MOVED TO AMEND HB 463. EXHIBIT 4** Motion carried unanimously.

Motion/Vote: **REP. BRANDEWIE MOVED HB 463 DO PASS AS AMENDED.** Motion carried 10-6 with **REPS. SAYLES, BROWN, VOGEL, WINSLOW, MCCAFFREE,** and **CHAIRMAN WALLIN** opposing.

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 2-18-93

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. DAVE BROWN	✓		
REP. TIM DOWELL	✓		
REP. DAVID EWER	✓		
REP. STELLA JEAN HANSEN	✓		✓
REP. JACK HERRON	✓		
REP. ED McCAFFREE	✓		
REP. SHEILA RICE	✓		
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. RANDY VOGEL	✓		
REP. KARYL WINSLOW	✓		
REP. DIANA WYATT			

By its terms Chapter 413 evidenced the legislative intent to have this change supersede any other provision of law, to the contrary, part of Chapter 413 now codified at Section 7-7-4403 provides:

"(1) The powers conferred in this part shall be in addition and supplemental to the powers conferred by any other general, special, or local law.

(2) The undertaking may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended and bonds may be issued under this part for said purposes, notwithstanding that any general, special or local law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension of a like undertaking or the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations, or other provisions contained in any other general, special, or local law, including but not limited to any requirement for the approval by the voters of any municipality.

(3) Insofar as the provisions of this part are inconsistent with the provisions of any other general, special, or local law, the provisions of this part shall be controlling."

We believe that since 1973, all water and sewer revenue bonds have been issued under the Revenue Bond Act. By virtue of that Act, the provisions of Sections 7-13-4321 through 7-13-4345 have been rendered obsolete, and as far as we can determine, not used for any purpose. They only add confusion by continuing to remain in our codes.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LOCAL GOVERNMENT COMMITTEE BILL NO. HB 613

DATE 2/18 SPONSOR(S) Rep Ewer

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Mrs Nan Ellegin	Dorsey & Whitney	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked Speaker Mercer why "benefitted property" was mentioned on page 6, line 14 but not mentioned elsewhere in the bill. Speaker Mercer replied he was unsure and deferred to Connie Erickson. Ms. Erickson replied the wording was consistent with existing improvement district language.

Senator Gage asked Mr. Morris to respond to his question regarding benefitted property. Mr. Morris replied that benefitted property pertains to the land which is directly serviced by the Road Improvement District (RID). He said assessments to pay for road improvements may be required from only those individuals directly benefitting from the road improvement.

Closing by Sponsor:

Speaker Mercer stated county commissioners would provide the necessary check and balance for this option since the decision to pay equally for assessments would be a public one. Speaker Mercer asked Senator Harding to carry HB 364 on the Senate floor should it receive a Do Pass.

HEARING ON HB 613

Opening Statement by Sponsor:

Representative David Ewer, House District 45, submitted testimony from Ms. Mae Nan Ellingson of Dorsey & Whitney (Exhibit #7). He said HB 613 would modernize local government laws on debt issuance. Representative Ewer stated HB 613 would make a series of technical amendments as outlined in Ms. Ellingson's memorandum.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked Representative Ewer why bonds held by the state of Montana cannot be redeemed early as specified on page 2, lines 7 and 8. Representative Ewer replied he was unsure but speculated it was artifactual language. He said the language could be stricken.

Senator Gage asked Representative Ewer if HB 613 would require an immediate effective date, to which he replied an immediate effective date would be preferrable.

Senator Waterman stated she would prefer to leave the effective date alone because "we have lived with this law for ten years so we might as well live with it until October".

Closing by Sponsor:

Representative Ewer stated HB 613 was passed unanimously by the House Local Government Committee.

EXECUTIVE ACTION ON HB 613

Motion:

Senator Eck moved HB 613 BE CONCURRED IN.

Motion:

Senator Gage made a substitute motion to strike the language excluding bonds held by the state from early redemption.

Discussion:

Senator Kennedy asked Mr. Morris if any additional language would have to be deleted. Mr. Morris replied if the Committee struck the language on page 4, line 15, it would also need to strike similar language as mentioned for the redemption of bonds.

Senator Kennedy asked Representative Ewer his opinion on Mr. Morris' comments. Representative Ewer replied the existing language has nothing to do with what the state does with its own bonds. He said the state, at one time, had the first right to buy any bond issued by local governments but added the state no longer has an interest in doing so. He said he supported the amendment offered by Senator Gage.

Vote:

Senator Gage's motion to amend HB 613 PASSED UNANIMOUSLY.

Motion/Vote:

Senator Waterman moved HB 613 BE CONCURRED IN AS AMENDED. MOTION CARRIED UNANIMOUSLY. Senator Gage will carry HB 613 on the Senate floor.

EXECUTIVE ACTION ON HB 364

Motion:

Senator Harding moved HB 364 BE CONCURRED IN.

Discussion:

Senator Eck suggested Senator Harding discuss HB 364 with Senator Crippen before she presented it on the Senate floor.

Vote:

The BE CONCURRED IN motion PASSED unanimously. Senator Harding will carry HB 364 on the Senate floor.

EXECUTIVE ACTION ON HB 414

Motion/Vote:

Senator Eck moved HB 414 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY. Senator Beck will carry HB 414 on the Senate floor.

ROLL CALL

SENATE COMMITTEE Local Government DATE 3-16-93

NAME	PRESENT	ABSENT	EXCUSED
Senator John "Ed" Kennedy	✓		
Senator Sue Bartlett			
Senator Dorothy Eck	✓		
Senator Delwyn Gage	✓		
Senator Ethel Harding	✓		
Senator John Hertel	✓		
Senator David Rye			✓
Senator Bernie Swift	✓		
Senator Mignon Waterman	✓		
Senator Jeff Weldon	✓		
Senator Eleanor Vaughn	✓		

SENATE STANDING COMMITTEE REPORT

March 17, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 613 (first reading copy -- blue), respectfully report that House Bill No. 613 be amended as follows and as so amended be concurred in.

Signed: _____
Senator John "Ed" Kennedy, Jr., Chair

That such amendments read:

1. Page 1, lines 22 and 23.
Strike: "held" on line 22 through "state" on line 23

2. Page 2, lines 7 and 8.
Strike: "and" on line 7 through "Montana," on line 8

3. Page 4, lines 6 and 7.
Strike: "held" on line 6 through "state" on line 7

4. Page 4, line 15.
Strike: "and whenever ~~such~~ the bonds are not held by the state,"

-END-

M- Amd. Coord.
M Sec. of Senate

Senator Carrying Bill

601528SC.Sma

DORSEY & WHITNEY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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MAE NAN ELLINGSON

MEMORANDUM

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 7
DATE 3-16-93
BILL NO. HB 613

TO: Members of the Senate Local Government Committee

FROM: Mae Nan Ellingson

DATE: March 16, 1993

RE: HB 613

The purpose of House Bill 613 is to revise certain statutory provisions related to the issuance of bonds by cities and counties that are either unduly restrictive on local governments or not in keeping with current practices and requirements related to the issuance of tax-exempt bonds and to repeal certain statutes that are on their face inconsistent with other existing statutes.

Sections 1 through 4 amend the existing law relative to general obligation bonds of cities and counties, as follows:

1. Sections 1 and 3, respectively, make technical changes in Sections 7-7-2268 and 7-7-4268 dealing with early redemption of bonds by counties and cities to: (1) reflect that bonds are currently issued in registered form; (2) indicate that amortization bonds do not have coupons attached to them, but rather are payable in installment payments; and (3) remove the requirement (and expense associated therewith) that the city or county publish notice of the redemption if the bonds which are to be redeemed prior to their stated maturity are issued in registered form, and to allow a redemption date other than an interest payment date.

2. Sections 2 and 4, respectively, make changes to Sections 7-7-2269 and 7-7-4269 and give the county or city, respectively, the ability to specify the

Exhibit #7
3-16-93
HB-613

order of redemption of their respective bonds at the time of the issuance. The current law requires redemption in the "numerical order in which the bonds were issued". It is not exactly clear what that means, but it has been interpreted to mean that bonds are to be redeemed in order of maturities, which generally results in the issuer having to call bonds bearing a lower interest rate first; which is not in the best interest of the issuer or its taxpayers. In most instances, an issuer would reserve the right to call bonds in inverse order of maturities. This change would give them that flexibility.

Sections 5, 6 and 7 of the bill would repeal or amend provisions of Title 7, Chapter 13 and Chapter 14 that are on their face inconsistent with or unnecessary in light of Title 7, Chapter 7, Part 44.

In 1939 the Legislature enacted the Municipal Revenue Bond Act of 1939, which is codified at Title 7, Chapter 7, Part 44 (the "Revenue Bond Act"), which authorized cities and towns to finance certain self-supporting municipal undertakings, including water and sewer systems through the issuance of revenue bonds. At the time it was introduced, the provisions that are now codified in 7-13-4321, et. seq., were also on the books. It also provides for the issuance of revenue bonds specifically for water and sewer systems, upon approval of the electors of the city or town. Through the years, the legislature has added to the list of undertakings that can be financed through the issuance of revenue bonds under the Revenue Bond Act. As originally introduced, the Revenue Bond Act required that the issuance of revenue bonds thereunder be approved initially by property owners, and after that was held unconstitutional, by the voters of the city or town. In 1973, pursuant to Chapter 413, Montana Session Laws, the Legislature amended the applicable provisions of the Revenue Bond Act to remove the requirement that revenue bonds be approved by the voters.

The Revenue Bond Act, as it currently exists provides that:

"(2) Bonds may be authorized to be issued under this part by resolution or resolutions of the governing body of the municipality:

(a) without an election; or

(b) when authorized by a majority of the qualified electors voting upon such question at a special election, should the governing body in its sole discretion choose to submit the question to the electorate."

3-16-93
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By its terms Chapter 413 evidenced the legislative intent to have this change supersede any other provision of law, to the contrary, part of Chapter 413 now codified at Section 7-7-4403 provides:

"(1) The powers conferred in this part shall be in addition and supplemental to the powers conferred by any other general, special, or local law.

(2) The undertaking may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended and bonds may be issued under this part for said purposes, notwithstanding that any general, special or local law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension of a like undertaking or the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations, or other provisions contained in any other general, special, or local law, including but not limited to any requirement for the approval by the voters of any municipality.

(3) Insofar as the provisions of this part are inconsistent with the provisions of any other general, special, or local law, the provisions of this part shall be controlling."

In our experience, since 1973, all water and sewer revenue bonds have been issued under the Revenue Bond Act. By virtue of that Act, the provisions of Sections 7-13-4302 and 7-13-4303 and Sections 7-13-4321 through 7-13-4345 have been rendered obsolete, and as far as we can determine, not used for any purpose. They only add confusion by continuing to remain in our codes.